

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 04/16/2024**



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

**THE CITY OF NEW YORK
LAW DEPARTMENT**

100 CHURCH STREET
NEW YORK, NY 10007

DAVID S. THAYER
Assistant Corporation Counsel
t: (212) 356-2649
f: (212) 356-1148
e: dthayer@law.nyc.gov

April 12, 2024

Via ECF

The Honorable Robert W. Lehrburger
United States District Court for the
Southern District of New York
500 Pearl Street
New York, NY 10007

Granted.

SO ORDERED:

A handwritten signature of Hon. Robert W. Lehrburger in black ink.

04/16/2024

HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

**Re: D.A., et al. v. N.Y.C. Dep't of Educ., et al.
No. 20 CV 5175 (AS)(RWL)**

Dear Magistrate Judge Lehrburger:

I am an Assistant Corporation Counsel at the Office of the Corporation Counsel of the City of New York, the Honorable Sylvia O. Hinds-Radix, attorney for the Defendants in the above-referenced action. I write this letter jointly with Plaintiffs' counsel and in accordance with the Court's February 29, 2024 Order, (ECF No. 104). I also write, jointly on behalf of the parties, to respectfully request that the Court accept this letter *nunc pro tunc* for the reasons set forth below.

As the Court will recall, the Student in this action recently reenrolled at a public school, and a new administrative proceeding was commenced on his behalf on March 19, 2024. In light of these developments, the parties have conferred and are in agreement that compensatory pendency for the period including and after March 19, 2024, will not be incorporated into any settlement of this action. Although the DOE would prefer that the entirety of the 2023-24 school year predating March 19, 2024, likewise be excluded from any settlement in this action, after discussion with Plaintiffs' counsel, DOE is amenable to considering a demand from Plaintiffs for the 2023-24 school year until March 18, 2024.

To that end, of the three options set forth in the Court's February 29, 2024 Order, the parties believe that a mediation or another resolution through the administrative proceeding is no longer germane to the settlement of this action; post-March 19, 2024 matters will be handled

in the administrative forum. The parties intend to return to the negotiation of the terms of the settlement as they had previously done with the Court's assistance, though now with the potential for discussions concerning the 2023-24 school year up to and including March 18, 2024. In connection with these forthcoming discussions, I respectfully propose a further status update to the Court on May 13, 2024.

Lastly, I wish to express my apologies to the Court, on behalf of both parties, for the tardiness of this letter. I am out of the office with an illness and was not reachable last night when Plaintiffs' counsel contacted me in connection with this letter. The parties apologize for its belated submission and respectfully request that the Court accept it *nunc pro tunc*.

I thank the Court for its consideration of this matter.

Respectfully yours,

/s/ David S. Thayer

David S. Thayer

cc: ***Via ECF***
All counsel of record